

SENATE BILL NO. 238

BY SENATORS MOUNT, CROWE, DUPLESSIS, MICHOT, SMITH, THOMPSON
AND WALSWORTH AND REPRESENTATIVES BOBBY BADON,
BALDONE, BARROW, HENRY BURNS, CARMODY,
CHAMPAGNE, DOWNS, FOIL, GISCLAIR, HOWARD, KATZ, LIGI,
LITTLE, MILLS, NOWLIN, PERRY, PUGH, ROBIDEAUX, SIMON,
SMILEY, JANE SMITH, ST. GERMAIN, THIBAUT, WADDELL AND
WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact the introductory paragraph of Children's Code Article 1173(A) and
3 R.S. 46:1403(A)(4), 1409(A), the introductory paragraph of 1409(B), 1409(C),
4 1409(D), 1412(A) and (B), the introductory paragraph of 1413(A), 1413(C), (H) and
5 (N), 1419, and 1420, to enact R.S. 46:1414, and to repeal R.S. 36:478(C)(3) and (4)
6 and R.S. 46:1406, 1407, 1410, 1411, and 1427, relative to child care facilities and
7 child-placing agencies; to provide for definitions; to provide for licensure, including
8 application and revocation; to abolish the Louisiana Advisory Committee on
9 Licensing of Child Care Facilities and Child Placing Agencies and the Louisiana
10 Committee on Private Child Care; to provide for appeals; to provide for duties and
11 obligations of the Department of Social Services; to provide for the Louisiana
12 Advisory Council on Child Care and Early Education; to provide for rule making;
13 and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. The introductory paragraph of Children's Code Article 1173(A) is hereby
16 amended and reenacted to read as follows:

17 Art. 1173. Preplacement home study; requirements

18 A. The department shall promulgate rules and regulations for preplacement
19 home studies in private adoptions in accordance with the Administrative Procedure
20 Act, ~~and after official review and approval of the Louisiana Advisory Committee on~~
21 ~~Licensing of Child Day Care Facilities and Child-Placing Agencies as provided in~~
22 ~~R.S. 46:1406 et seq., which~~ **The** rules and regulations **promulgated pursuant to**
23 **this Section** shall not be inconsistent with the following:

24 * * *

1 Section 2. R.S. 46:1403(A)(4), 1409(A), the introductory paragraph of 1409(B),
2 1409(C), 1409(D), 1412(A) and (B), the introductory paragraph of 1413(A), 1413(C), (H)
3 and (N), 1419, and 1420 are hereby amended and reenacted and R.S. 46:1414 is hereby
4 enacted to read as follows:

5 §1403. Definitions

6 A. As used in this Chapter, the following definitions shall apply unless the
7 context clearly states otherwise:

8 * * *

9 (4) "Day care center" means any place or facility operated by any institution,
10 society, agency, corporation, person or persons, or any other group for the ~~primary~~
11 purpose of providing care, supervision, and guidance of seven or more children, not
12 including those related to the caregiver, unaccompanied by parent or guardian, on a
13 regular basis for at least twelve and one-half hours in a continuous seven-day week.
14 A day care center that remains open for more than twelve and one-half hours in a
15 continuous seven-day week, and in which no individual child remains for more than
16 twenty-four hours in one continuous stay shall be known as a full-time day care
17 center. A day care center that remains open after 9:00 p.m. shall meet the appropriate
18 regulations established for nighttime care. ~~Day care center does not include a group~~
19 ~~child day care home, as defined in R.S. 46:1441.1(A)(5), under a sponsoring agency,~~
20 ~~as defined in R.S. 46:1441.1(A)(6).~~

21 * * *

22 §1409. Rules, regulations and standards for Class A licenses

23 A. The department shall promulgate rules and regulations for Class A
24 facilities to carry out the provisions of this Chapter in accordance with the provisions
25 of the Administrative Procedure Act. ~~Prior to giving notice of its intended action as~~
26 ~~required by R.S. 49:953, the department shall submit the proposed rules and~~
27 ~~regulations to the Louisiana Advisory Committee on Licensing of Child Day Care~~
28 ~~Facilities for official review and approval. If the child care committee fails or refuses~~
29 ~~to approve the proposed rules and regulations, they shall return the rule or regulation~~
30 ~~to the department along with specific recommendations for changing the proposed~~

1 ~~rule.~~ The department shall submit the proposed ~~rule change~~ **rules and regulations**
2 for approval in accordance with the Administrative Procedure Act ~~if the~~
3 ~~recommended rule change was approved by the child care committee. If the~~
4 ~~committee fails to comply with the provisions of this Subsection within thirty days,~~
5 ~~the department shall have authority to submit such rule or regulation for approval in~~
6 ~~accordance with the Administrative Procedure Act. The review process shall include~~
7 ~~at least three regional public hearings, with appropriate written notice, and final~~
8 ~~approval will be subject to the oversight of the Joint Committee on Health and~~
9 ~~Welfare.~~ **The department shall seek input and guidance from the Louisiana**
10 **Advisory Council on Child Care and Early Education, pursuant to R.S. 46:1414,**
11 **concerning proposed rules, regulations and standards for licensure of Class A**
12 **day care centers as defined in R.S. 46:1403(A)(4).**

13 B. ~~The Louisiana Advisory Committee on Licensing of Child Care Facilities~~
14 ~~and Child-Placing Agencies shall approve rules and regulations developed by the~~
15 ~~department to meet at least the following standards for all Class A child care~~
16 ~~facilities and child placement agencies as defined in this Chapter which, at a~~
17 minimum, shall:

18 * * *

19 C. The department shall prepare standard forms for applications and for
20 inspection reports ~~which shall be submitted to the child care committee for their~~
21 review.

22 D. A comprehensive review of all standards, rules, and regulations for Class
23 A facilities shall be made at least every three years by the department ~~to submit to~~
24 ~~the child care committee as provided in R.S. 46:1407 and this Section, subject to the~~
25 approval of the oversight subcommittees of the House Committee on Health and
26 Welfare and the Senate Committee on Health and Welfare.

27 * * *

28 §1412. Class B licenses

29 A. ~~Within thirty days after beginning operation, a child care facility which~~
30 ~~has not applied for a Class A license must register with the department. The~~

1 information to be reported shall be the name of the owner or owners; the name of the
2 director, if different from the owner; a statement that neither the owner nor the
3 director has ever been convicted of a felony; and, the name, address, and telephone
4 number of the facility. This information may be filed by any interested person. The
5 failure to file the required information or the filing of false information shall be a
6 misdemeanor punishable by a fine of not more than two hundred dollars. Each day
7 of operation in violation of this Subsection shall constitute a separate offense.

8 **Application for a Class B license shall be made by the child care facility or child**
9 **placing agency to the department upon forms furnished by the department.**
10 **Upon receipt of the application for a Class B license and upon establishment of**
11 **the fact that minimum requirements for a license as established by the**
12 **department are met and that the facility or agency is in compliance with all**
13 **other state and local laws and regulations, the department shall issue a Class B**
14 **license for such period as may be provided for in the published regulations of**
15 **the department. The department may provide through the promulgation of**
16 **rules for the issuance of temporary, provisional, or extended licenses if a**
17 **disapproval has not been received from any other state or local agency**
18 **authorized by any other laws or regulations to inspect such facilities or agencies.**

19 B. Upon receipt of the information required in Subsection B, the department
20 shall issue a Class B license to the facility. A Class B license shall apply only to the
21 location stated in the registration, and such license, once issued, shall not be
22 transferable from one place to another or from one person to another. If the location
23 of the facility is changed or the owner of the facility is changed, the license shall be
24 automatically revoked, unless the new information has first been registered with the
25 department.

26 * * *

27 §1413. Rules, regulations, and standards for Class B licenses

28 A. The ~~Louisiana Committee on Private Child Care~~ **department** shall
29 promulgate rules and regulations in accordance with the Administrative Procedure
30 Act. These rules shall:

1 * * *

2 C. The standards for fire and safety promulgated by the office of state fire
3 marshal shall regulate the following:

4 (1) Facility open to inspection at all times.

5 (2) ~~Child-staff ratios:~~ **Maximum legal occupancy.**

6 ~~(a) If 10 or fewer children and no more than 2 children are under age 2, 1~~
7 ~~staff member.~~

8 ~~(b) If 10 or fewer children and 3 or more children are under age 2, 2 staff~~
9 ~~members.~~

10 ~~(c) If 11 or more children:~~

<u>Age</u>	<u>Child-Staff ratio</u>
Under 1	6:1
1 to 2	8:1
2 to 3	12:1
3 to 4	14:1
4 to 5	16:1
5 to 6	20:1
school age	25:1

19 ~~(d) When the agency serves children of mixed ages, excluding children under~~
20 ~~two years, an average of the staff ratio* may be applied.~~

21 (3) Minimum space requirements.

22 (4) One-hour fire walls.

23 (5) Fire alarm.

24 (6) Wiring, piping and fire extinguishers.

25 (7) Egress and ingress, halls, passageways.

26 (8) Emergency exits.

27 * * *

28 H. Every facility shall have a written discipline policy, which shall be made
29 available to parents and to authorized inspection personnel upon request. Corporal
30 punishment may be used in a facility only with the written permission of child's

parent or guardian. The ~~private child care committee~~ **department** may adopt rules regulating the use of corporal punishment. However, the ~~committee~~ **department** shall not prohibit corporal punishment when a parent or guardian has given the facility his written permission.

* * *

N. ~~Child-staff ratios and minimum space requirements shall be enforced by the Department of Health and Hospitals or the Department of Social Services, as well as the state fire marshal.~~ **The department shall seek input and guidance from the Louisiana Advisory Council on Child Care and Early Education, pursuant to R.S. 46:1414, concerning proposed rules, regulations and standards for licensure of Class B day care centers as defined in R.S. 46:1403(A)(4).**

§1414. Louisiana Advisory Council on Child Care and Early Education

A. The department shall through the promulgation of rules and regulations, pursuant to the Administrative Procedure Act, create the Louisiana Advisory Council on Child Care and Early Education. The rules and regulations shall provide for membership, terms, voting procedures, quorum, and any other matters which are necessary for the creation and maintenance of the council.

B. The Louisiana Advisory Council on Child Care and Early Education shall provide input and guidance to the department on matters pertaining to rules, regulations and standards for licensure of Class A and Class B day care centers as defined in R.S. 46:1403(A)(4).

* * *

§1419. Revocation or refusal to renew license; written notice

The department shall have the power to deny, revoke, or refuse to renew a license for a child-care facility or child-placing agency if an applicant has failed to comply with the provisions of this Chapter or any applicable, published rule or regulation of the department relating to child care facilities and child-placing agencies. If a license is denied, revoked, or withdrawn, the action shall be effective when made and the department shall notify the applicant or licensee of such action

1 in writing immediately and of the reason for the denial, revocation, or withdrawal of
2 the license. ~~The department shall take such action with the advice and consent of the~~
3 ~~child care committee, in the case of Class A facilities, or the private child care~~
4 ~~committee, in the case of Class B facilities. If the child care committee fails or~~
5 ~~refuses, within thirty days after receipt of the recommendation, to reach a decision~~
6 ~~on a recommendation of the department to revoke or deny a Class A license, then the~~
7 ~~recommendation of the department shall become the official action of the committee~~
8 ~~and the department shall be authorized to take such action. If any committee member~~
9 ~~misses any two unexcused consecutive committee meetings then that member shall~~
10 ~~automatically be removed from the committee and a new member shall be appointed~~
11 ~~to the committee in the same manner as the removed member was appointed.~~

12 §1420. Refusal or revocation of license; appeal procedure

13 Upon the refusal of the department to grant a license or upon the revocation
14 of a license, the agency, institution, society, corporation, person or persons, or other
15 group having been refused a license or having had a license revoked shall have the
16 right to appeal such action by submitting a written request to the secretary of the
17 department within thirty days after receipt of the notification of the refusal **of the**
18 **license or, in the case of revocation, within fifteen calendar days after receipt of**
19 **the notification of the** revocation. The appeal hearings shall be held no later than
20 thirty days after the request therefor, except as provided in the Administrative
21 Procedure Act, and shall be conducted in accordance with applicable regulations of
22 the department and the provisions of R.S. 46:107. This provision shall in no way
23 preclude the right of the party to seek relief through mandamus suit against the
24 department, as provided by law.

25 Section 3. R.S. 36:478(C)(3) and (4) and R.S. 46:1406, 1407, 1410, 1411, and 1427
26 are hereby repealed.

27 Section 4. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
30 vetoed by the governor and subsequently approved by the legislature, this Act shall become

1 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____